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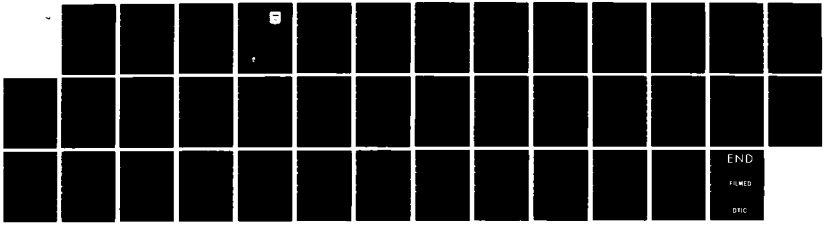

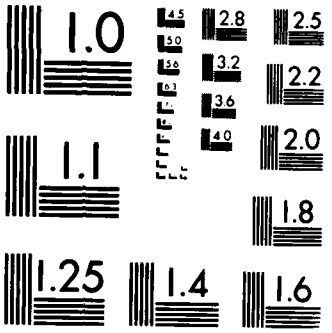

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STUDENT ESSAY

"A CASE AGAINST UNIONIZATION IN THE ARMED FORCES"

BY

LIEUTENANT COLONEL WILLIAM J. FURTADO
FIELD ARTILLERY

4 APRIL 1984

US ARMY WAR COLLEGE, CARLISLE BARRACKS, PENNSYLVANIA

USAWC MILITRY STUDIES PROGRAM

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INDIVIDUAL ESSAY

by

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CHAPTER I

INTRODUCTION

Purpose

The purpose of this paper is to present a case against the need for unionization of the Armed Forces of the United States.

Overview

Chapter I of this paper states the purpose or position taken, outlines the organization to be followed, and presents a historical background to establish proper context for the issues. Chapter II identifies three major issues of the military unionization question: (1) Successful precedence; (2) Constitutionality; and (3) Institutional erosion. Chapters III, IV and V address these issues respectively from an opposition point of view. Each issue is analyzed separately to determine that: (1) precedence has either not existed where thought to exist, or was unsuccessful where it has; (2) existing prohibitive legislation is in fact constitutional; and (3) the solution to perceived institutional erosion lies partly within the military services. Chapter VI summarizes, provides conclusions and recommendations.

Historical Background

In order to appreciate the complexity of the issues surrounding military unionization, it is necessary to become familiar with the development of American organized labor and the social, political and economic aspects of the environment in which it evolved. Although early movements directed at organizing labor in the private sector did exist,

they came and went, rose and fell, with the state of the economy. Few lived through the numerous depressions of the nineteenth century. Not until the founding of the American Federation of Labor (AFL) in 1886, under the sound leadership of Samuel Gompers, did America's organized labor movement take root. The AFL, by all past standards, was a conservative organization which sought through the federation of existing craft unions, to secure better working conditions and wages through the existing economic system. The Federation had no political or social objectives.[1] It was this conservatism which enabled the AFL to survive the turbulent times ahead. Until the 1930's, labor legislation was virtually nonexistent and the courts decided disputes, generally in management's favor.

In the 1930's, legislation was passed which began to bring into balance the previous advantages of management. The Norris-LaGuardia Act of 1932 placed restrictions on the use of the injunction by management and the National Labor Relations Act of 1935 (Wagner Act) established federal policy and legal framework governing labor/management relations.[2] Over the next twenty-five years, federal legislation would be enacted which would alter the balance of power between organized labor and management. As a reaction to independent union strikes and violence during 1946, the Taft-Hartley Act was passed in 1947, which neutralized the advantages gained by labor through the Wagner Act. Closed shops were outlawed and unfair labor union practices were established. The Landrum-Griffin Act of 1959 further refined the existing legal framework by establishing a mechanism to protect union members from unlawful union practices.[3] The point here is not to provide a detailed history of the American labor movement, but to establish that much of the legal framework governing collective bargaining between labor and management was

developed in the private sector. It is within this legal framework that public sector collective bargaining will emerge in the 1960's.

Although federal employee labor activity existed throughout the 19th century, and some successes were gained, this activity was governed by the principal of sovereignty and the patronage system flourished. It was not until 1883 when the Civil Service Act was passed that steps were initiated to base federal employment on merit as opposed to patronage. The Lloyd-La Follette Act of 1912 further eliminated restrictions imposed on federal employees by Presidents Taft and T. Roosevelt ("gag orders" of 1902 and 1909). Federal employees were now free to petition Congress, but not to bargain collectively.[4] Chief Executives continued to spell out the specific restrictions to the public sector including President F. D. Roosevelt, who stated in a letter dated 16 August 1937, to Luther C. Steward, President of the National Federation of Federal Employees:

> All government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into the public service. It has its distinct and insurmountable limitations when applied to public personnel management. The very nature and purposes of government make it impossible to bind the employer in mutual discussions with employee organizations. The employer is the whole people, who speak by means of laws enacted by their representatives in Congress.[5]

Though taken largely out of context, this letter, particularly this paragraph, reinforced the principle of sovereignty applied to government as an employer.

However, in 1962, President Kennedy issued Executive Order 10988 which was the first federal proclamation directing that federal employee organizations be recognized by management (formally/informally) and

permitted them limited collective bargaining rights. It was this Executive Order that opened the door to federal level collective bargaining and by 1967 over half a million nonpostal federal employees were recognized by Executive agencies and departments.[6]

Executive Orders 11491 (1969) and 11616 (1971), further refined the basis for exclusive recognition of federal organized labor and laid the basis for the Civil Service Reform Act of 1978 which has become the basic legal framework for public sector collective bargaining and labor/management relations. By November of 1975, over two million non-postal federal employees were represented by collective bargaining unions. Specifically excluded from these Orders were the FBI, CIA and NSA, but not the military. In 1968, in the midst of these activities, Congress passed the National Guard Technicians Act, which in effect, unionized full-time Air National Guard personnel. In an attempt to resolve the technician's status for retirement purposes, the Congress declared them to be federal employees and they therefore fell under Executive Order 11491.[7] These technicians are full-time National Guard personnel who often perform the same function in the civilian part of their dual status as they do when attending drills. For the first time in America's history, uniformed military personnel had been unionized.

Under these conditions, the Armed Forces entered the 1970's with major additional problems. Vietnam was drawing to a less than favorable conclusion and prestige was quickly diminishing. The draft would soon end and an all volunteer force would emerge, characterized by rapid civilianization. Force modernization problems would compete for manpower management monies in the DOD budget which eventually would contribute to the perception that military benefits were being eroded. This then set the stage for unionization within the Armed Forces.

CHAPTER II

ISSUE DETERMINATION

Status of Labor

One might begin by asking the question, who wants military unions and why? To answer this question one must look at the position of the labor movement in the public sector in the early 1970's. It was gaining momentum and rapidly expanding, particularly at the state and local levels. The federal sector offered new expansion ground and quickly became a new frontier. Additionally, there was no legislation which specifically addressed union membership for the two million plus federal employees in uniform, the armed services.

Status of the Military

It is also necessary to look closely at the status of the US Armed Forces at that time. The Vietnam experience had seriously damaged the armed forces. The historical paternalism of Congress based upon its constitutional responsibilities had deteriorated and was replaced with a skeptical and suspicious view of the Pentagon and its activities.[8] The perception among the military was one of a substantial loss of prestige for the military institution and the individuals who belonged to it.

At approximately the same time the draft ended and an all volunteer force emerged to take its place. To obtain quality personnel to meet the manpower needs of an all volunteer force, especially one with little or no prestige, monetary and fringe benefit incentives became commonplace and employment terminology as opposed to duty terminology crept

into the military's jargon. Alan Ned Sabrosky of the Foreign Policy Research Institute, clearly portrays "civilianization" when he states:

> What seems to have stimulated interest in American military unions is not simply the move to an all volunteer force, but what has been done in conjunction with that move . . . the services have increasingly tended to portray military service as an occupation, emphasizing on the job training and off duty education benefits, in an effort to compete for large numbers of qualified young people in the job market.[9]

Sabrosky goes on to state that it is this self-inflicted wound that opened the door to the military union issue.

Another factor affecting the military at this time was pay, both for active duty personnel and proposed changes to the retirement system. In 1975 military compensation was detached from its association with General Service (GS) compensation. From 1967 to 1975, armed forces pay was directly tied to that of federal employees of similar rank.[10] During this period the military benefited from union lobby efforts without belonging but subsequently fell behind the federal employee in pay. Serious probing into the armed forces retirement program during this period led to the appointment of the President's Commission on Military Compensation in 1977. Career military members questioned the good faith of the government which promised them certain retirement benefits for service to their country. Finally, equipment modernization needs began to seriously cut into manpower management dollars resulting in the elimination of some benefits but with wage increases as compensation. The bottom line for the military member was a universal perception of rapid benefit erosion.[11]

AFGE Initiatives

With unions seeking growth, particularly in the public sector, and with conditions ripe within the military, the American Federation of Government Employees was quick to make the first move. Clyde Webber, president of the union announced plans to amend its constitution during the 1976 convention to allow membership of uniformed military personnel. The following is extracted from the 27 June 1975 issue of the Wall Street Journal.

> For now at least the union envisions a limited role on behalf of servicemen. Union officials recognize that there are legal restrictions against a union's engaging in traditional contract bargaining and grievance processing for servicemen, although the AFGE probably would lobby Congress later to eliminate those prohibitions . . . they (AFGE officials) say there isn't any doubt that the US Constitution's First Amendment already guarantees servicemen the right to join unions.[12]

Thus, constitutionality arises as an issue. Does a soldier have a right to join a union? This, of course, presupposes that a law or regulation would be promulgated denying that alleged right.

AFGE did change its constitution at their 1976 convention to permit membership of uniformed military personnel but only with its present membership's approval. The AFGE then polled its 1,566 locals in May 1977 to determine if the members wanted military membership. The results showed that overwhelmingly the members rejected the military as fellow members (151,582 not in favor and 38,765 in favor). The obvious reason was the large membership the military would bring and the power and influence that would come with it.[13] AFGE has temporarily abandoned its attempt to move into the military part of the federal sector but not before alarming certain elements f government--the door remains open.

Government Reaction

AFGE's initiatives created an emotional reaction within Congress and the Department of Defense which would lead to the promulgation of a prohibitive directive and proposed prohibitive legislation. It is this reaction which becomes the basis for the central issue of constitutionality; the service member's right to belong to a union and partake in union activities.

European Military Unions

European unions have existed for some time with claims of varying success. It is from this fact that military union proponents develop the issue of precedence in which they claim that unions have had either no impact on or a positive impact on readiness, morale and discipline.

Summary

At this point we can only offer a partial answer to the question of who wants military unions and why. The AFGE initiative determined that the rank and file of its membership (one of the largest public sector unions) was opposed. AFGE leadership obviously was in favor but not supported by their federation (AFL-CIO) President, George Meany, who referred to the proposal as "The funniest thing I have ever heard. . . ."[14] An undetermined number of military personnel favored unions as they petitioned AFGE to initiate their action. Later chapters will examine military opinion as well as Congressional attitudes and general public opinion.

Major Issues

Three prevailing major issues have been continually surfaced by proponents of military unionization.

1. Institutional erosion - The Cause.

2. Constitutionality - The Right To Join.

3. Successful Precedence - The Solution.

These will be analyzed in the following Chapters.

CHAPTER III

PRECEDENCE ISSUE

Proponents of US military unionization contend that several precedents exist for unionization of the Armed Forces. First of all they assert that the need for such organizations has been pointed out by attempts to unionize within the US during the last forty years. Secondly that similar organizations concerned with public safety such as the police and firefighters have successfully unionized without causing a degradation of essential services. Also included in this group are the National Guard Technicians who in fact are military members. Finally, they point out that unions have existed in Western Europe and have had no adverse impact on morale, discipline or readiness; in fact, they claim that they have aided management towards greater efficiency in these areas.

Attempts at American Military Unionization

Only a few attempts were actually made to organize active duty military personnel in the United States. In 1946, a Sergeant Emel Mazey, who in 1975 became a major officer in the United Auto Workers, attempted to organize military personnel in Manila to protest the slowness of demobilization after World War II. Although an estimated 140,000 personnel were involved, the campaign ended quickly due to a lack of support by its potential members.[15]

In 1967 during the Vietnam War, Private Andrew Stapp attempted to organize uniformed personnel following one of his court martials in that year. Stapp put forth an eight point program on Christmas of 1967 to representatives of fourteen different installations. The demands included enlisted control of courts martial boards, an end to saluting, the election of officers and other radical proposals. Stapp received an additional court martial and was discharged from the Army. Approximately 6,500 members joined his American Servicemen's Union which rapidly faded away.[16]

During the same period a similar group emerged in the Navy and Marine Corps. The Movement for a Democratic Military (MDM) arose to voice their collective grievances against command policy. In a similar fashion to those described above, the movement died.[17]

An army surgeon attempted to organize military doctors in Europe in 1975. Their goals and objectives were higher wages, better continuing educational benefits, working and living condition improvements and establishing reasonable hours.[18]

None of these attempts to organize the military from within were successful, primarily because of their militant nature and failure to attract a following of any significance. None backed issues that were appealing to a large percentage of the military population which would be needed for success.[19] It appears that this would be a major hurtle for any attempted organization of the military given the tremendous diversity of duty positions.

European Military Unions

Presently, seven European nations (Austria, Belgium, Denmark, Federal Republic of Germany, Netherlands, Norway and Sweden) allow uniformed personnel to join labor unions. Five of these nations allow for collective bargaining and two of the five authorize members to strike. The unions in Germany and the Netherlands function strictly under a "meet and confer" policy or exercise lobby tactics. As such, they are merely functioning as a professional association with an approved mechanism for airing collective grievances. Sweden and Austria have the right to strike, but that right has constraints to protect the public interest.[20]

To put forth these examples of unionization as successful and worthy of emulation by the United States is ludicrous. Two significant variables must be considered when making such an analogy. First, those nations that endorse military unionization are highly socialized nations in which labor unions play an important role in government itself. In most cases, military unions are tied to political parties and have direct influence on governmental matters. The US military is an apolitical institution under civilian control and whose interference in government could never be tolerated. Secondly, the mission of the armed forces of these small nations, who do not expect to fight alone if ever at all (i.e., Sweden) cannot be compared with that of a world power with worldwide national interests.[21]

The question of readiness and discipline is paramount. These nations with unionized military forces have been referred to as successful ventures. It appears that the true measure of success, force readiness, has never been put to the true test--effectiveness in battle. Success here really means the attainment of such goals as a 40-hour

week, no dress standards, no haircut standards, no overt respect for authority (requirement to salute or use the term Sir when addressing an officer). Proponents would have us believe that these successes have had no effect on discipline or readiness. Military discipline and readiness is not something that is turned on and off, but must be prepared for and practiced in all activities of the military service. Hence, the military is a unique institution, totally different from any other in civilian society. For the same reason, unions cannot distinguish between peace-time and war-time military functions as they are tightly interwoven and impact significantly on discipline and readiness.

Police and Firefighter Unions

Many proponents of military unionization point to the successes of collective bargaining among the police and firefighters at the state and local level in that they bear some resemblance as security elements. In most cases police and fire departments do not have the legal right to strike so one could argue how much true collective bargaining occurs. Therefore, these elements, upon whom there is great public reliance in some areas, have taken to illegal strike on occasion to satisfy personal needs. Other concerted actions such as work stoppages, sickouts and the "Blue Flu" are common knowledge and represent illegal concerted action to attempt to make a mock collective bargaining system into a real one. In most cases no action was taken against violators and illegally acquired gains were referred to as labor successes.

While job actions have their just place in the collective bargaining process (private sector), they are inappropriate in the public sector and inconceivable in the military. Yet they have occurred in police and firefighting units with disastrous result.

National Guard Civilian Technicians

National Guard Civilian Technicians are assigned as full-time members to National Guard units to provide continuity and technical expertise for purposes of increased operational readiness. They often perform the same functions or closely related functions and hold the same organizational position when they attend weekend drills (as military members of the unit) as they do during the week when they are classified as civilian federal employees. This classification has come about as a result of the National Guard Technician Act of 1968 which attempted to fix a retirement act for these technicians who are paid federal funds through the respective Adjutants General. Their designation as dual status civilian/military federal employees enables them to join unions and bargain under Executive Order 11491. The term civilian is a misnomer however, as these personnel are performing a full-time military mission which directly impacts on unit readiness.[22]

These technicians have in fact engaged in illegal job action and job slow-downs caused by changes to work shifts to accommodate an externally administered operational readiness inspection. These illegal actions were found to be recommended to the steward by union officials.[23] A National Guard commander's worst enemy in maintaining a ready posture is time, due to the fact that the unit only drills periodically on weekends. Yet he must devote numerous hours in negotiations over conditions and with personnel who directly influence his unit's readiness posture. An attempt to include technicians in Senate Bill S.274 (to prohibit military unions) as military personnel met with failure and will be discussed in the next chapter.[24]

Summary

Neither previous American experiments with military unionization nor European military unions provide a precedent for armed forces unionization. The former were radical, militant and narrow in their objectives and all faded quickly. The latter are analgously out of context and provide no comparative basis. National Guard Technicians, however, are a precedent based upon an erroneous perception of their function. Their successes, however, have had an adverse impact on the readiness of our total force conventional defense system.

CHAPTER IV

THE CONSTITUTIONALITY ISSUE

By far the most prevalent argument for military unions is that based upon an individual's First Amendment rights to freedom of assembly and freedom of association. This became a major issue when AFGE announced their plan to extend membership to the uniformed services of the Department of Defense. The Department of Defense, fearing that Congress might draft legislation which would later be ruled unconstitutional, promulgated Department of Defense Directive 1354.1. In the words of Secretary of Defense Harold Brown:

> This directive prohibits commanders and supervisors of Department of Defense . . . from engaging in . . . collective bargaining with members of the armed forces or with . . . organizations, or associations purporting to represent members of the armed forces for . . . resolving . . . terms or conditions of military service.[25]

The directive went on to prohibit strikes and other forms of concerted actions and although it restricted an individual's opportunity to join a union, it did not specifically prohibit it.[26] By issuing this directive, Secretary of Defense Brown hoped to remove the need for Congress to pass prohibitive legislation which might be tested by the Supreme Court.[27]

On 16 September 1977 the Senate passed S.274 almost unanimously, which not only applied those restrictions set forth in the DOD Directive, but precluded any member of the armed forces, active and reserve components, from becoming a member of any collective bargaining organization. Additionally, National Guard Technicians were reclassified

under the original version of this bill as military personnel and not civilian federal employees.[28] This measure was later removed from the bill by the House Committee on Armed Services during their Full Committee Hearings on the bill, again for fear of prompting an unconstitutional court ruling.[29] In 1978, S.274 was enacted as Public Law 95-610. The question of the law's constitutionality continues to be asked by military union proponents. What they fail to do, however, is examine the Constitution beyond the First Amendment. During committee hearings on the bill, the Senate heard testimony from the former Dean of the Harvard Law School and former Solicitor General Erwin Griswold, a noted constitutional law expert. While recognizing the individual rights established under the Bill of Rights, Griswold pointed out that Article I, Section 8, Clause 14 of the Constitution gives to Congress the power to regulate the land and naval forces. That power carries with it a Congressional responsibility to citizens and military members to ensure that our national security remains protected. The Senate Armed Services Committee's final report goes on to state:

> . . . Previous acts of Congress and decisions of the Supreme Court have made it clear that different rules for the military and civilian societies are necessary because of the special requirements of the military service, that 'the military constitutes a specialized community governed by separate discipline from that of the civilian.' Congress, acting under its enumerated constitutional powers, has substantial breadth and flexibility in determining the rules governing military life.[30]

There are numerous Supreme Court decisions which clearly recognize the difference between the military institution and civilian society. Principal among these are Parker v. Levy (1974), wherein the court ruled that the application of First Amendment rights must be different between the civilian society and military institution. Additionally, the court

has repeatedly granted to Congress and the Executive Branch the freedom to control and monitor the activities of the military due to the complexity of that institution and the expertise within the Executive Branch. This was clearly the court's point in Gilligan v. Morgan (1973). In June 1977, the court again upheld the fact that in certain circumstances, government could withhold First Amendment rights when it denied the right of prisoners to engage in union associational activities (Jones v. North Carolina Prisoner's Labor Union, Inc., 1977).[31]

Congressional Concern with Military Unions

The Senate Armed Forces Committee expressed several reservations regarding military labor unions in its 1977 report.[32]

1. Divided Loyalty. Unions are by nature political and demand loyalty from their members. While this is an inherent and intended characteristic, which contributes to union effectiveness, it cannot be tolerated in the military institution which is based upon discipline and loyalty to its leaders. Union claims that they will not interfere with operational matters are ridiculous and impossible to keep. All aspects of military duty are interrelated and contribute to discipline, morale and readiness.

2. Chain of Command. Commanders need a free hand in combat and therefore in training for combat. Grievance resolution by outside agencies would only undermine the chain of command and place a third party between commanders and their men. Again, it is virtually impossible for unions to stay out of military or operational areas due to the interdependence of most areas of service life.

3. Readiness. There is no question that readiness is affected by those issues discussed under division of loyalty and chain of command undermining. Readiness requires arduous training under unusual circumstances with generally long hours--obvious areas for grievance. These are normal activities, inherent to the military service and necessary for a readiness posture which allows the proper defense of the nation.

4. Concerted Action. We have seen in the public sector that the original stated intent of unions to avoid illegal job action has quickly become unimportant. This is the nature of the beast. Unions cannot control their personnel when emotions run high and more often will not. Remember, a union is a political organization whose survival is largely based upon its support to its constituency.

5. Political Aspect of Unions. Union leaders testifying before Congress freely admitted that the union would expect its military membership to support its political objectives and endorsed candidates. This concept is totally contradictory to the fact that the US military institution is apolitical and must remain so to insure loyalty and responsiveness to the needs of the American public.

Summary

The basis upon which Congress passed PL 95-610 is totally supported by the Supreme Court in its rulings which at a minimum imply that the military service is the business of Congress, the President and the Department of Defense. The basis for that ruling rests in Article I of the Constitution. In a recent decision (Chapel et al v. Wallace et al, June 1983), Chief Justice Burger, speaker for the Court, stated that the:

> Special status of the military has required, the Constitution contemplated, Congress has created and this court has long recognized two systems of justice, to some extent parallel: one for civilians and one for military personnel. . . . No military organization can function without strict discipline and regulations that would be unacceptable in a civilian setting. . . . The unescapable demands of military discipline and obedience to orders cannot be taught on the battlefields; the habit of immediate compliance . . . must be virtually reflex with no time for debate or reflection . . . .[33]

While PL 95-610 has not been directly tested by the Supreme Court, little doubt exists as to how this nation's highest court views such a law's constitutionality.

CHAPTER V

INSTITUTIONAL EROSION ISSUE

The question of institutional erosion arises from three factors, all of which are valid points. First, the perception on the part of military members that many of their rights and benefits are being eliminated or decreased. Secondly, the apparent actions on the part of Congress and the Department of Defense during the 1970's which contributed to those perceptions. Finally, reactions by the Department of Defense and the military services to the All Volunteer Force which have brought about a "civilianization" of the military forces. Each of these factors brought about conditions which portrayed the military service as potentially fertile ground for union plowing.

Civilianization

This phenomena has been prevalent in the armed forces since the end of World War II and can be witnessed by the conversion of many positions, previously military, to civilian jobs. Many installations are today contracting out many facets of installation management. Attempts to recruit quality personnel for the all volunteer force has created incentives in the form of compensation and fringe benefits that resemble those in the civilian community. Semantics also play a significant role as new terminology such as "on the job training" and "military occupational specialty" worked their way into the military lexicon. It was an era when the term management was viewed as being synonomous with leadership. These are essentially self-inflicted wounds which do not require

an external, politically oriented organization (union) to provide a remedy. Any fix to these real problems requires a deep and complete understanding of the interrelated concepts of discipline, morale and readiness and therefore must come from within the military structure.

Compensation and Benefit Erosion

The seventies saw military compensation fall behind that of civilian society and even behind that of civilian government employees. Force modernization exacerbated the compensation issue as annually the Department of Defense found it necessary to pump more and more money into equipment improvement programs. All looked towards that large portion of the defense budget that supported personnel management programs as a possible source of funding new equipment. It was unlikely that Congress would provide additional dollars to defense, considering the recent experience in Vietnam and the public's attitude towards the military. Benefits such as dependent health care, commissaries and exchanges came under increasing attacks by Congressmen and the department of Defense. The retirement system itself was and continues to be seriously challenged. All of these actions contributed to perceptions on the part of the military member that there was a lack of good faith on the part of its leadership and Congress. Again, these are internally created problems which require internal solutions based upon the nature of the military institution. There are positive signs that the compensation issue is on the road to recovery. The President's Commission on Military Compensation recognized the need to retain the pay and allowance system as opposed to a fixed salary system for the military, as well as recommending a variable housing allowance and increased transportation

benefits for junior enlisted personnel.[34] The Congress and the President rejected their proposals for retirement system restructuring. In a recent letter to the Army Times, Secretary of Defense Caspar Weinberger stated his views on military retirement.

> Unlike typical civilian retirement programs, the military retirement system is not an old-age pension program. Rather, it is a mechanism designed to shape a professional force able to meet the nation's defense requirements. . . .[35]

His understanding of the military institution is clear as he continues,

> Furthermore, during their careers, spanning the prime years of their lives, our men and women in uniform must meet the demanding requirements associated with fulfilling the defense mission. These dedicated professionals routinely work long and irregular hours with no overtime pay. They face exposure to risk, an inability to control living or working conditions, forced family separations, and costly periodic relocations,. At the same time, they are obliged to accept a highly disciplined and controlled life, unlike any other sector of the American population. Members serve in a system that provides no vesting in the retirement system and, in fact, only 12 percent of those who enter active service ever reach retirement eligibility--the other 88 percent receive no retired pay at all.[36]

This explicit support of the present retirement system by a Secretary of Defense is a clear message to military members that the administration intends to support the military institution and its members who serve.

Alternatives to the Outside Unions

Several professional associations exist in each branch of the Armed Forces. The Air Force Sergeant's Association (AFSA) and the Fleet Reserve Association (FRA) are two existing associations which act to hear collective grievances of military members and are effective lobbying agencies within Department of Defense and the Congress. They do not interfere with the chain of command but rather augment it as grievance resolution mechanisms. Unlike these two associations, the

Association of the United States Army (AUSA) does not lobby, or listen to grievances and its leadership is almost totally comprised of officers and retired officers. However, in 1977, they added enlisted members in an attempt to overcome the heavy officer bias. The AUSA could easily expand its function to those being performed by the AFAS and the FRA.[37]

These associations could provide many of the services that are offered by a union and do so without the damages inherent in a military union (political influence, dual loyalty, chain of command interference, and a negative impact on readiness and discipline) as they are a part of the military institution.

Summary

It is accurate to say that there is an underlying malaise within the military institution which has contributed to its erosion from within. Unionization however, is not the solution. By its very nature, the union could only add to the problems or perceived problems that exist within the military institution as described above. A solution could come from within and the existing associations with minor changes, can provide that solution.

CHAPTER VI

CONCLUSION

Summary and Conclusions

Three central issues dominate the question of unionization of the US military: successful precedents which demonstrate possible application to the US active armed forces, Constitutionality, and Erosion of the Military Institution.

Successful precedence does not exist. European military unions are not analagous to the US armed forces because of political and economic differences in the social structures of these nations, and the role of their respective armed forces. Experiments in the US with military unionization have been disastrous due to their militancy and their limited scope of interest. The National Guard Technicians have been unionized but at the expense of total force readiness.

The constitutionality of PL 95-610 which prohibits members of the armed forces from joining unions is upheld under explicit power granted to Congress by Article I of the Constitution and numerous Supreme Court rulings concerning that power.

Finally, there is an underlying malaise within the armed forces caused by a multitude of factors and actions discussed in the previous chapter. It is true that this malaise must be addressed but the solutions cannot be provided by an organization which by its very nature would further undermine the military institution and its principles. Military Associations offer the best alternative towards this end.

Opinions and Attitudes

Many surveys have been conducted on the question of military unionization.

Manley, McNichols and Young have found in their surveys of military personnel that less than 30 percent favor military unionization or would join a military union.[38] Similar surveys of combat troops conducted by Segal and Kramer in 1979 generally confirmed those findings.[39] Public opinion was measured by the Gallup opinion index in 1977. The question, "Would you favor or oppose unionization of the American armed forces?" Overwhelmingly, 74 percent of the nationwide sample opposed unionization, 13 percent were in favor, and 13 percent had no opinion.[40]

A more detailed response to our original question of who wants unions and why, is now available. Small pockets of military members laboring under the perception that no one cares, continue to keep the issue alive. Education and assistance through our professional associations coupled with renewed congressional and administration support should lower those numbers. However, as long as they remain as high as they appear to be, unionization might resurface as a future goal of AFGE leadership or other labor organizations.

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